



August 21, 2001

Mr. James B. Cranford, Jr.
Attorney/Mediator
1921 Moores Lane
Texarkana, Texas 75503

OR2001-3684

Dear Mr. Cranford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151004.

The Housing Authority for the City of Texarkana (the "authority"), which you notify us you represent, received two requests for information: (1) all correspondence between the authority and a named individual relating to the individual's termination or resignation, and (2) correspondence, memos, letters, notices, etc. between the authority and HUD's Troubled Agency Recovery Center. You claim that the requested information is excepted from disclosure under sections 552.102 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). However, information about public employees' job performance or the reason for their dismissal, demotion, promotion, or resignation is not excepted from public disclosure. Open Records Decision Nos. 444 at 5-6 (1986), 405 at 2-3 (1983). The submitted document contained in Tab 1 relates to a public employee's job performance and the reason for the employee's dismissal. Therefore, the document must be released to the requestor.

We next note that some of the submitted documents contained in Tab 2 fall within the scope of section 552.022 of the Government Code. Section 552.022 provides in relevant part that:

the following categories of information are public information and are not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a) (emphasis added). You do not raise section 552.108. You have not indicated, nor are we aware of, any other law that would make this information confidential. We note that section 552.111 of the Government Code is a discretionary exception under the Act and does not constitute "other law". See Open Records Decision No. 473 (1987) (governmental body may waive section 552.111). Therefore, we find that the information at issue in Tab 2 is public information not excepted from public disclosure under section 552.022(a), and must be released.

Although you claim that the remaining information in Tab 2 "falls within the exception set forth in Section 552.111," you have not explained how the information at issue relates to the policymaking functions of the authority. Gov't Code section 552.301(e)(1). Therefore, we have no basis on which to conclude that the information is excepted from disclosure. Open Records Decision No. 363 (1983). Accordingly, we find that the authority may not withhold the remainder of the submitted information in Tab 2 under section 552.111 of the Government Code.

In summary, all of the submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public

records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/sdk

Ref: ID# 151004

Enc. Submitted documents

c: Ms. Denita Nash
Reporter
The Texarkana Gazette
315 Pine Street
Texarkana, Texas 75501
(w/o enclosures)